

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Eightieth Session
April 25, 2019**

The Senate Committee on Natural Resources was called to order by Chair Melanie Scheible at 4:00 p.m. on Thursday, April 25, 2019, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Melanie Scheible, Chair
Senator Chris Brooks, Vice Chair
Senator Dallas Harris
Senator Pete Goicoechea
Senator Ira Hansen

STAFF MEMBERS PRESENT:

Alysa Keller, Committee Policy Analyst
Erin Sturdivant, Committee Counsel
Christine Miner, Committee Secretary

OTHERS PRESENT:

Dominique M. Etchegoyhen, Deputy Director, State Department of Conservation and Natural Resources
Kristin Szabo, Administrator, Nevada Natural Heritage Program, State Department of Conservation and Natural Resources
Laurel Saito, Nevada Water Program Director, The Nature Conservancy
Robert Mergell, Administrator, Division of State Parks, State Department of Conservation and Natural Resources
Tyler Turnipseed, Chief Game Warden, Department of Wildlife
Kailey Taylor, Management Analyst—Legislative Liaison, Director's Office, Department of Wildlife
Kyle Davis, Coalition for Nevada's Wildlife

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Tiffany East, Board of Wildlife Commissioners, Department of Wildlife
Gerald Lent

CHAIR SCHEIBLE:

We will open the hearing on Assembly Bill (A.B.) 52.

ASSEMBLY BILL 52: Creates the Division of Natural Heritage within the State Department of Conservation and Natural Resources. (BDR 18-217)

DOMINIQUE M. ETCHEGOYHEN (Deputy Director, State Department of Conservation and Natural Resources):

In preparation for the 80th Legislative Session, the State Department of Conservation and Natural Resources carefully reviewed its statutes to determine if changes or clarifications needed to be made. It found *Nevada Revised Statutes* (NRS) does not accurately reflect the Nevada Natural Heritage Program. Assembly Bill 52 was brought forth as an administrative housekeeping bill.

KRISTIN SZABO (Administrator, Nevada Natural Heritage Program, State Department of Conservation and Natural Resources):

The Nevada Natural Heritage Program supports A.B. 52. I will read from my written testimony ([Exhibit C](#)).

LAUREL SAITO (Nevada Water Program Director, The Nature Conservancy):

The Nature Conservancy supports A.B. 52. I will read a letter of support, signed by Juan Palma, Nevada State Director of The Nature Conservancy ([Exhibit D](#)).

CHAIR SCHEIBLE:

We will close the hearing on A.B. 52 and open the hearing on A.B. 58.

ASSEMBLY BILL 58: Revises provisions governing violations of regulations adopted by the Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources. (BDR 35-212)

ROBERT MERGELL (Administrator, Division of State Parks, State Department of Conservation and Natural Resources):

The Division of State Parks supports A.B. 58. I will read from my written testimony ([Exhibit E](#)).

SENATOR GOICOECHEA:

Is it illegal to have a firearm in the State Parks?

MR. MERGELL:

No, it is not.

SENATOR GOICOECHEA:

Why do you want to delete the language "... and who refuses to comply with the regulation ..." in section 1, subsection 3? I can see not wanting a ranger or an employee who might not have police powers to make an arrest. It seems it would be stronger if a sworn officer could warn "you can't do this," so why remove that language? When a person refused to heed the warning, it would be automatic to write a citation.

MR. MERGELL:

The language in that section pertains to the fact that we are required to issue a warning prior to writing a citation. Removing that language means if any violation of any of the State Park rules and regulations established in Chapter 407 of the *Nevada Administrative Code* (NAC) are violated, a citation can be issued without using a warning first. Any violation is a misdemeanor offense. Without that language, any rule violation is against the law. It does not require a warning stating "you should not have broken the law." Warnings are still going to be given more often than not. This removes the requirement to "have" to give a warning.

CHAIR SCHEIBLE:

While reviewing this statute, did you encounter or discover other agencies having similar requirements to warn before issuing a citation?

MR. MERGELL:

These are the only NACs in the State that require any type of prior warning for a violation of State Park rules.

TYLER TURNIPSEED (Chief Game Warden, Department of Wildlife):

The Department of Wildlife is neutral to A.B. 58. Game wardens work in State Parks quite often, whether for boating at South Fork, hunting at Washoe Lake or fishing at Cave Lake or the Walker River area. There is no other State law requiring a warning before issuing a citation.

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SENATOR GOICOECHEA:

Do game wardens have to comply with the law requiring giving a warning before writing a citation?

MR. TURNIPSEED:

It is my understanding that if a game warden is enforcing a State Park rule or regulation, the warden has to issue a warning first under current statute. If it is fishing, wildlife or a law violation, the warden does not.

SENATOR GOICOECHEA:

So, a warden could not warn a person about the length of the firewood being used?

MR. TURNIPSEED:

Correct.

MR. MERGELL:

On whether the Department of Wildlife wardens have to issue the same warning, in current statute, they are not allowed to issue the warning. Nevada State Park peace officers are the only ones allowed to issue warnings and citations in State Parks.

CHAIR SCHEIBLE:

We will close the hearing on A.B. 58 and open the hearing on A.B. 59.

ASSEMBLY BILL 59: Revises requirements for the issuance of certain permits for entering, camping and boating in state parks and recreational areas. (BDR 35-211)

MR. MERGELL:

The Division of State Parks supports A.B. 59. I will read from my written testimony ([Exhibit F](#)).

CHAIR SCHEIBLE:

Hearing no further testimony, and with no one appearing in Las Vegas, we will close the hearing on A.B. 59 and open the hearing on A.B. 83.

ASSEMBLY BILL 83 (1st Reprint): Makes various changes to provisions relating to wildlife. (BDR 45-210)

MR. TURNIPSEED:

The Department of Wildlife is presenting A.B. 83. It is a big bill with many small sections. The intent is to clean up language in statute. I will review the bill section by section on this first reprint with amendments incorporated.

The words "public safety" are added to section 1 giving Department employees the authority to take big game animals in the interest of "conserving wildlife in this State." Sometimes Department employees are forced to kill an animal for public safety reasons; like a coyote near a school or a mountain lion threatening people. Adding the phrase "public safety" better authorizes employees under certain circumstances.

KAILEY TAYLOR (Management Analyst—Legislative Liaison, Director's Office, Department of Wildlife):

Section 1.5 of A.B. 83 is added to the bill to align with A.B. 474 from the Assembly Committee on Natural Resources, Agriculture and Mining. This will allow the Department to expend any amount of money in the account which exceeds \$5 million, with the approval of the Board of Wildlife Commissioners. Current statute allows the Department to spend up to 75 percent of the previous year's deposits. The Wildlife Heritage Account is funded by the Partnership in Wildlife Drawing, Silver State Tag Drawing, wildlife tag sales and auction tags.

ASSEMBLY BILL 474: Revises provisions relating to wildlife. (BDR 45-902)

MR. TURNIPSEED:

Section 2 of A.B. 83 is the wildlife poaching statute. Subsection 1 of section 2 adds the word "moose" to modernize the bill as there are now moose in Nevada. Ten to 15 years ago, moose were rare here. It was called the moose bill in the State Assembly, and I am wearing my moose pin given to me by the Chair of the Assembly Committee on Natural Resources, Agriculture and Mining.

Section 2, subsection 1, paragraph (b) adds the terms "a manned or unmanned" before the word "aircraft". This was at the suggestion of the Legislative Counsel Bureau to modernize the statute and bring it to current times, similar to S.B. 454.

SENATE BILL 454: Revises provisions relating to the unlawful harassment of wildlife. (BDR 45-753)

Section 2, subsection 2, paragraph (a) removes the words "or property" and adds the words "pet or livestock". Subsection 2 of the poaching statute gives exemptions for when it is legal to kill a big game animal. One exemption for killing one of these animals is when it is necessary to protect the life of a person. The distinction is needed so if a mountain lion attacks inside a horse corral, it is okay to defend a pet or livestock. The broader term "or property" was eliminated to prevent a deer being killed for eating a garden or landscaping.

Subsection 6 is added to section 2 with definitions for "Livestock" and "Pet" by referencing 2 other statutes.

Section 3, subsection 2, paragraph (a) adds the terms "A manned or unmanned" in front of the word "aircraft".

Section 4, subsection 1, paragraph (b) adds the term "moose" to the other big game species.

Section 5, subsection 1, paragraph (b), subparagraph (3) strengthens language about residency requirements. The wardens spend a great deal of time investigating residency fraud. Nevada's big game populations are very good and our trophy quality is very good. Our bobcat populations are good and valuable on the fur market. There are many cases each year when someone living out of state applies for a tag or license and fraudulently claims to be a Nevada resident. If a person purchases or applies for any hunting, fishing or trapping privilege or entitlement conditional upon residence from another state, the person cannot be a resident of Nevada. If a person is buying resident privileges in another state, then by definition, this person cannot be a resident of Nevada.

MS. TAYLOR:

Sections 6 and 7 of A.B. 83 deal with changes for the Dream Tags raffle and the wildlife resource enhancement stamp. There is no crosswalk between the licensing vendor, Kalkomey Enterprises, and the Dream Tag administrator, goHunt. This is because of personal identifiable information for tag purchases. The bill proposes for any person to be able to purchase a resource enhancement stamp which puts funds into the Wildlife Heritage Account. Participants in the Dream Tag raffle do not have to purchase a resource enhancement stamp to apply for the raffle.

MR. TURNIPSEED:

Section 8 of A.B. 83 is the wildlife harassment statute. The Department investigated cases in recent years that should have been violations and realized the statutes to make charges did not exist. An example is a case in Lincoln County. Some shed antler hunters were watching a big buck waiting for the antlers to drop. When some people began to approach with a spotting scope, the shed hunters started shooting a pistol to scare the deer into jumping and running to get the antlers to fall off. A resident warden in Panache put together an investigation, matching up empty cartridges with the hand gun, interviewing witnesses and suspects, and discovered there was no crime in statute to charge the offenders.

The wildlife harassment law deals primarily with motorized vehicles in NRS 503.010. It is illegal to harass big game mammals or game birds with an aircraft, helicopter or motor-driven vehicle, including a motorboat or sailboat. There were cases of people chasing deer or elk on horseback, to rope them for whatever reason, and there was no statute to make charges. To strengthen this section, the definition of harassment is broadened by adding the language "by any means, including without limitation, with a manned or unmanned aircraft, firearm, helicopter, horse, motorboat, motor-driven vehicle, noisemaker or sailboat".

Some members of the Board of Wildlife Commissioners are uncomfortable with "horse" being included in that language. Someone might inadvertently jump a deer or hunt a deer on horseback. This person would accidentally be in violation. The Department is okay with removing the word "horse" to satisfy that concern.

The terms "manned or unmanned" are added to Section 8, subsections 2 and 3.

Section 9 states it is unlawful for any person to set a trap, snare or similar device within 200 feet of a public road or highway. The bill seeks an exemption for Department personnel. This comes into play when a coyote causes problems at a school, a mountain lion is seen in town or for bears in Tahoe. Traps must be set for public safety concerns. There have been cases of people tampering with bear traps and alleging the Department was violating the law. The language in Section 9, subsection 3, paragraph (b) clarifies that concern.

CHAIR SCHEIBLE:

New language in section 1.5, subsection 4 allows the Department to expend money exceeding \$5 million. Does this mean when the Account has more than \$5 million, the Department cannot make expenditures of \$5 million plus \$100?

ERIN STURDIVANT (Committee Counsel):

Yes, anything over \$5 million.

MS. TAYLOR:

That is the understanding of the Department.

CHAIR SCHEIBLE:

I just want to be sure we are not authorizing the Department to make \$6 million expenditures at once. It is not to say the Department would not responsibly spend that amount of money. In the harassment of wildlife statute, I like the inclusion of the word "horse." Could it also include bear baying with dogs?

MR. TURNIPSEED:

The Department draws the line between a method of take and a method of harassment. Dogs are authorized in a manner of hunting for bears and mountain lions. The line is drawn between hunting and harassing. The word "dog" is not included to avoid confusion with chukar, duck or bear hunting.

A citation for hunting without a tag was recently written for a person who had hounds running a mountain lion track without a mountain lion tag. Does this fit your example of an instance when dogs were pursuing, but not in the act of taking with a tag?

CHAIR SCHEIBLE:

With the tag, would bear baying not be covered under this statute?

MR. TURNIPSEED:

Yes, that is correct.

SENATOR BROOKS:

Does all of section 8 only apply to harassment, not any taking? Are NRS 503.005 and 503.010 only harassment statutes? Do they include anything about taking for a legal hunt?

MR. TURNIPSEED:

There are portions of NRS 503.010 about hunting. Section 8, subsections 3 and 4 include laws making it illegal to spot game animals from the air and then communicate that information to hunters on the ground. In subsection 5, it is unlawful to transport game and hunters with a helicopter. There are portions of this statute concerning the hunt; subsection 1 concerns harassment. Using a firearm as a means of harassing versus using a firearm on a hunt in an attempt to take are clarified.

SENATOR BROOKS:

Is subsection 2 of NRS 503.005 only for harassment, not the hunt? Does the language being added in section 8, subsection 1 have only to do with harassment, not hunting?

MR. TURNIPSEED:

Yes, subsection 2 of NRS 503.005 is the statute for the manner of hunting, killing birds or animals while flying an aircraft. It states a person shall not kill or attempt to kill any birds or animals while flying in an aircraft. If someone is flying over an animal and tries to shoot it, that is a violation of NRS 503.005. If an aircraft is used to harass, molest, rally or stir up as part of the definition of harassment, it is a violation of NRS 503.010.

SENATOR HANSEN:

With regard to section 8 of the bill, it is my understanding that the original intent of the law addressed people who drove animals with aircraft to hunters on the ground. That was the reason it was called harassment. The bill expands that to an uncomfortable level for me. The addition of "firearms", "horses", "motorboats" and "noisemakers" expands this section of NRS beyond the original intent. The original intent was to prevent motorized vehicles from being used to drive animals on the ground for hunters.

Another issue is the shed antler sport. When cowboys on horses chase cattle, then run after the deer for fun; is that harassment? The cowboys were having a laugh with no intention of killing deer. There was no intent to drive the deer to an area for hunters to shoot them. I am concerned with adding those terms to the law which considers it harassment, even if a crime is not committed. A game warden could see the cowboys running after the deer and consider it a crime because they were on horses.

I was involved with setting up the Wildlife Heritage Fund. Are the funds available to be spent over the \$5 million cap to be used for the same thing as originally intended? Are the funds to be used for predator control and things of that nature?

MS. TAYLOR:

Yes, the Board of Wildlife Commissioners has to approve every expenditure as is current practice. Most of the funds are to be used for predator control and habitat improvement projects.

SENATOR HANSEN:

As I recall, there was a requirement to buy a resource enhancement stamp. That was put in statute so people who hate hunting could not buy them to prevent someone from hunting. Is there concern that by removing the stamp requirement, someone could prevent someone else from hunting? Why is it being eliminated from the law?

MS. TAYLOR:

I am unsure of the original genesis. Revising it in A.B. 83 will allow more money for projects helping wildlife and habitat. No one is required to purchase it, and people can purchase as many stamps as they choose.

SENATOR HANSEN:

All of the licensing in wildlife is now consolidated. What is a resource enhancement stamp?

MR. TURNIPSEED:

The resource enhancement stamp does not allow hunting, fishing or trapping. It is an authorization in the Department's system to buy chances for the Dream Tag raffle. With an outside vendor handling the Dream Tag raffle, the resource enhancement stamp is no longer needed in the Department's system as a gateway to the vendor's system.

SENATOR HANSEN:

It was my understanding, referring to section 9 of the bill, that box traps were not included in the definition of a trap. I thought traps had to be steel jaw leghold traps originally, then snares were added. It is my understanding that anyone can set a box trap, even in town if necessary, on private or public land. I recall a lady being convicted for tripping and tampering with bear traps. It was a

box trap that was set for bears on public land. Are box traps legal on public land within the 200 foot perimeter?

MR. TURNIPSEED:

In the case with the bear trap, it was illegal to set a steel leghold trap larger than a No. 1 Newhouse trap. The antiquated language was deleted to remove any ambiguity in statute and to clarify traps, snares or similar devices. At that time, the bear traps the Department used were made of aluminum. The Department has an implied exemption to set a bear trap for public safety.

A box trap is included in the broad definition of a "trap, snare or similar device" as stated in Section 9, subsection 3, paragraph (b). The trap has to be more than 200 yards off the road if on public land.

SENATOR HANSEN:

If I wanted to allow box traps, would I need to offer that as an amendment to this A.B. 83?

MR. TURNIPSEED:

Yes, that is correct. There are a couple of nuances here. There are several sections in the *Nevada Administrative Code* (NAC) that deal with trapping distances from trails and urban areas. There are exemptions for box traps.

SENATOR HANSEN:

I would like to know which section of NAC contains this exemption.

MR. TURNIPSEED:

Nevada Administrative Code 504.340 holds the exemptions for box traps.

SENATOR HANSEN:

I thought a bill is coming forward about the antler shed issue.

MR. TURNIPSEED:

There was a bill about licensing antler dealers, but it did not pass the first deadline.

SENATOR GOICOECHEA:

In section 5, it appears a person does not have to be a resident of Nevada as long as the person did not buy a hunting or fishing license in another state. Is that correct?

MR. TURNIPSEED:

Statute contains a large list of residency qualifications. Much of the fraud comes from residents of California applying for resident tags in Nevada. California has a resident homeowner tax exemption. It is a big tax exemption for those whose primary residence is in California. It is a tool used by the Department to prove residency fraud in residency investigations. It is used under the language in section 5, subsection 2, paragraph (b) of "any hunting, fishing or trapping privilege or entitlement conditional upon residency from another state ...". Power bills and cell phone records are also tools used in investigations. Many people own property in different states. To prove primary residence becomes a burden of proof in those cases.

SENATOR GOICOECHEA:

Section 5, subsections 3 and 4 contain confusing language with regard to residency requirements.

CHAIR SCHEIBLE:

I think the word "and" helps. In order to get the license you have to have maintained permanent residence here "and" been physically present in the State "and" not have applied for a tag or entitlement in another state.

SENATOR GOICOECHEA:

I see that, but it looks like it allows some wiggle room.

"I guess I cannot rope deer on horseback anymore, right? I need to take the horse up, when I was handy I could do that."

MR. TURNIPSEED:

It has been sport in Nevada for a while. I used to see deer in Paradise Valley with cattle ear tags. They had been roped as fawns, and when castrated, grow crazy antlers as a cactus buck. I watched a guy in Jarbidge chase a bull on horseback for miles across a big flat land table because the bull was injured; this made me sick. The harassment statute did not apply because the guy was not on a motorized vehicle.

KYLE DAVIS (Coalition for Nevada's Wildlife):

The Coalition for Nevada's Wildlife supports A.B. 83. Section 1.5 regarding the expenditure from the Wildlife Heritage Account does not change the existing authorization of what the funds can be used for. This allows for more money to come out of the Account because there is inaccessible money needed for projects. One example is the amount of wildlife habitat burned in wildfires last year. This bill opens up a potential funding source to do the work to restore the wildlife habitat in the burned areas. It is a good addition to the law to maximize all available resources to benefit our wildlife.

TIFFANY EAST (Board of Wildlife Commissioners, Department of Wildlife):

The Board of Wildlife Commissioners supports A.B. 83. The Wildlife Heritage Account is something we have looked to for support for those projects. We get a lot of matching funds or support toward those projects. It is important to have an additional lump sum to support habitat or predator control.

GERALD LENT:

I would like to address section 1.5, subsection 1 of A.B. 83. The Wildlife Heritage Account is defined in NRS 501.3575. It states:

The money in the Account must be used by the Department as provided in this section for: (a) the protection, propagation restoration, transplantation, introduction and management of any game fish, game mammal, game bird or fur-bearing mammal in this State; ...

I was part of the group supporting the added subsection (b) "the management and control of predatory wildlife in the State". It is an integral part of the management and restoration of wild game in Nevada. The Heritage Fund bill was passed for this use and this use should continue as promised to the sportsmen in the State. It must state the purpose for which the excess of \$5 million should be used. The bill should add "must be used as provided for in NRS 501.3575" which was the original intent of the use of the funds. It is best not to leave loose ends. The bill does not clarify what the excess funds are to be used for.

CHAIR SCHEIBLE:

I appreciate your comment; it is a legal question. In my interpretation of the bill, it already references any other rules the Account is subject to and must follow. Stating it specifically in this section would be redundant.

MS. STURDIVANT:

Section 1.5, subsection 1, paragraph (a) states that the money in the Account has to be used specifically for the purposes stated. Subsection 4 outlines the ways in which the money can be spent. The purposes for which the money is to be spent has not changed and is limited by the purposes stated in subsection 1.

MR. LENT:

I appreciate that clarification.

CHAIR SCHEIBLE:

Do you support A.B. 83?

MR. LENT:

Yes, as long as the funding is used for the original purposes.

SENATOR HANSEN:

Mr. Lent is a former chairman of the Board of Wildlife Commissioners. The Wildlife Heritage Account was originally set up for the application of matching funds from the Pittman-Robertson Act, which did not allow the use of funds for predator control projects.

MR. LENT:

That is not right. I have researched this funding. As long as the game animal is in Nevada's Wildlife Action Plan as the lion is, with the approval of the U.S. Department of the Interior, applications can be submitted for the use of matching funds for predator control. We were misled.

SENATOR HANSEN:

You mentioned lions. That is a game and a predator animal. What about other forms of predator management, like coyotes and bobcats?

MR. LENT:

Matching funds can be used as long as it is for game animals in Nevada's Wildlife Action Plan. Deer and grouse are in the Plan.

SENATOR HANSEN:

My point is that the reason the Account was set up was so there were dollars available for predator management that could be used because traditional dollars in wildlife could not be used and because of the parameters of the matching funds. If you are correct about how matching funds can be used, it is no longer a concern. The original intent of the sportsmen was to set up a fund and use a portion of it for habitat restoration and some for predator control programs.

MR. LENT:

The sportsmen contributed a lot of money to the Fund. In Utah, a world record mule deer tag went for \$401,000. The Nevada heritage deer tag went for \$160,000; just one tag. There is a lot of money involved in the purchase of specialty tags.

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CHAIR SCHEIBLE:

Having no more business to conduct, we will close the hearing at 4:59 p.m.

RESPECTFULLY SUBMITTED:

Christine Miner,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	2		Attendance Roster
A.B. 52	C	1	Kristin Szabo / Nevada Natural Heritage Program / State Department of Conservation and Natural Resources	Written Testimony
A.B. 52	D	2	Laurel Saito / The Nature Conservancy	Letter of Support by Juan Palma
A.B. 58	E	3	Robert Mergell / Division of State Parks / State Department of Conservation and Natural Resources	Written Testimony
A.B. 59	F	1	Robert Mergell / Division of State Parks / State Department of Conservation and Natural Resources	Written Testimony